# Investigative Photography

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## Developing an Investigative Photography Program

If EHS professionals are going to use photography in safety and health program management or for investigative purposes then thoughtful consideration must be given to developing the appropriate policy and response capability. You must implement the elements of an investigative photography program, by evaluating your needs for camera equipment, film, photograph storage, and personnel training.

Photographs can be a valuable resource for the EHS professional. A well thought out photography program can provide support for standard operating procedures and prevention strategies, hazard control or abatement, documenting accident experiences, and training. With current technology, photography can be easily used in desktop publishing to create a variety of advantages in communicating important information through a media, which is very learner friendly.

Why do EHS professionals need a program for investigative photography? Suppose an accident has occurred and you decide to take pictures and brief your management. Not a bad idea. After some time, a complaint is filed with OSHA, and during the investigation it is learned that you have photos. Of course they want to see them. The photos support OSHA's position that an alleged violation may have existed. The photographs you took are now evidence, which is going to be used to support the violation.

If you take photos you should offer them to the authorities and other investigators, which is really the principle behind having an effective response with photo documentation. But remember you did not have a program. You really can not say that your response was part of a planned contingency. You really can not testify to a chain of custody because you have no policy for one. You did not write down the number of photos you took. You did not show a reference in any photos so the shadows and poor lighting distort the image. They do not support relative conclusions or they may give the appearance the condition is worse than it actually is.

Keep in mind that as the quality and purpose of your photos are scrutinized you will have to keep the best face on an argument that you did not think that taking pictures required a lot of training and that is why you did not get any. Poor photography, or none, can result in serious legal consequences. A single lawsuit avoided or won by good photography will pay for your program costs many times over. The development of an Investigative Photography Program begins by framing some important policy issues. It is helpful to answer questions that are at least likely in any legal proceeding and build the program to suit specific company or organizational needs.

Your company policy must establish who will own the rights or control for any photos taken. Normally, photos taken by government investigators and officials eventually become part of the public domain. However, under the current copyright laws the photographer actually owns all rights

to the use of the photo unless a work for hire written agreement is signed before the photos are taken or the photographer agrees to give up those rights through a written agreement. Your company policy needs to be clear about who controls the ownership of the photos. Establishing a policy for investigative photography begins by addressing the following list of questions. A good basic program will account for each issue raised by the question.

1. Why do you want to take photos?
2. Where will you take photos?
3. Who will take the photos?
4. How will the photos be developed?
5. Where will the photos be stored and how?
6. Where will the camera equipment be stored, who will maintain it?
7. How will training be provided?

## Flash Photography

Since photography is essentially exposing film to reflected light, introducing artificial light into a photograph can become very tricky and have disastrous results. The effective range of most cameras built in flash units is 4 to 6 feet. Unless the camera is specifically designed to measure flash output, you have no variability based on the actual need for additional light sources.

That is generally why when you attempt a photo in lower light the flash lights up the foreground, reflecting back brightly off of any shiny surface. Some folks try higher film speeds and discover that when the print is enlarged the photo looks worse. When ever possible you should avoid using flash photography. Why? Investigative Photography is dealing in reality. So why interject a lot of artificial light and try to explain that.

## Photographic Techniques

Photography can be used to document accident scenes quickly and later be used for report preparation and analysis of the site conditions. If photography is restricted for some reason, the investigation should proceed, and sketching should carefully replace any photographs you would have taken. When photography is to be used, a scene sketch must still be made and must include the location where the photographs were taken.

A basic documentation strategy using photos must include the three perspectives of an; overview of the entire accident site, a midrange view of the specific object or condition, and a close-up of the object or condition. The photographer should circumnavigate the scene “outside looking in” and pivot the scene to achieve a perspective of “inside looking out”.

## Photograph Information Maps and Logs

Photographs, which will be used for investigative purposes or as some form of evidence,

have to be detailed with supporting information. A standard operating procedure should be created to assist in the completion of both a photograph information map and a photograph log.

A Photograph Information Map should contain certain information. A map created strictly for training may vary from one used for investigative purposes. Once the photographer becomes proficient with the camera, a training map should be replaced with one, which will adequately detail the photograph and serve as a source of testimony in recreating the photograph. When EHS professionals rely on someone else to do the photography, a photograph information map can become critical. You need to show that you directed the photographer appropriately and a written record will be necessary.

In a legal proceeding the photographer's information can be very helpful in clarifying details about the photo and how it was taken. The information map is very helpful in comparing how the photo was set up to the image that you get from development. You can avoid trial and error learning and get proficient at recognizing light and subject challenges and judging the outcome of the photograph.

A log of all photos taken must accompany photographs, which are specifically taken for evidence purposes. That log is slightly different from an information map. The purpose is to show a chronology of when the photos were taken and by whom. It should coincide with evidence collection and can serve to document that process. It would be prudent to complete both an information map for each photo taken and compile a log of all photos in any use of photography that may end up in a legal proceeding.

## Photographs and Legal Proceedings

If photographs are to be used in legal proceedings then the demands likely to be placed on the photographer and photographs must be thoroughly understood. It will be too late to account for your failures to have a program once your photographs become part of a discovery order.

The expectations about photographic skills and evidence documentation should be accounted for as the photographs are taken. An approach of photographing everything is a strategy, which could backfire, and cause more questions regarding overall investigative competency. You must learn how to anticipate the demands of the legal process.

In an investigation where photography is being used as a tool for evidence collection, it is very important to have a purpose for each photograph. The EHS professional must at a minimum use the rules for photographic evidence collection. Therefore, one or more overview and midrange photos should be taken and of course close ups for each item or subject that will be necessary to support any aspect of the investigation. All photographs must have a standard reference object. The photographer or investigator has to know why the photo was taken.

Once photographs are developed they must be labeled. Accuracy is paramount. Even if a photo doesn't turn out, it still must be labeled and at least available if not used in a report. Controversy may be avoided by just including the photo and highlighting that it did not turn out. Labeling investigative photos should follow a defined format and be consistent with the photograph log. Either the photographer or some one who watched the photographs being taken must create the

log. Small paper labels can be created and affixed to the back of the photo.

Photographs are well established as evidence in legal proceedings. Many celebrated cases have had outcomes influenced by photography. Being prepared for the use of photographs in legal proceedings starts long before the first photograph is taken. By not having a plan or understanding of how photographs will be used is risking that they will be used to discredit the photographer or the investigation. Your program must have a prepared answer to the likely questions encountered in a legal proceeding. Think about why is the question important, what does it speak to, and what is required to answer it.